

HOWARD COUNTY ETHICS COMMISSION
3430 Courthouse Drive
Ellicott City, Maryland 21043

December 21, 2020

ADVISORY OPINION NO. 2020-02

The Howard County Ethics Commission (“Commission”) has received a request, on behalf of the Requestor,¹ who has inquired prospectively about potential conflicts of interest regarding future employment with the County. The Requestor currently holds a position as a delegate to the Maryland House of Delegates. For the reasons outlined herein, the Ethics Commission finds that there is not a conflict under Howard County Ethics Law for the Requestor to hold the position of a part-time employee with the County, while serving as a Delegate for the State of Maryland.

I. BACKGROUND

The Ethics Commission conducted a hearing on this request on November 9, 2020, at which time the Requestor appeared, along with the County’s Chief of Staff, to answer questions posed by the Commission. The County Administration is planning to hire a contingent part-time executive exempt employee who will be responsible for managing the redevelopment and revitalization of Downtown Columbia. The primary responsibility of this position will be to advance Downtown redevelopment within the requirements and the vision of the Downtown Columbia Plan.

This position will involve coordination across several County agencies, as well as close collaboration with The Howard Hughes Corporation (HHC) as the master developer, Downtown Columbia residents and property owners, businesses and organizations. The Requestor will monitor compliance with and support fulfillment of the Downtown Columbia Plan and other associated agreements. The Requestor will serve as the Administration’s primary liaison to these various organizations.

The Requestor was previously employed by Howard County and served as a senior advisor to County Executive Ulman from 2006 through 2009, as County Executive Ulman’s Chief of Staff from 2009 through 2014 and as the Council Administrator for the Howard County Council from 2014 through 2019. As part of Requestor’s previous employment with the County, she worked extensively in the plans for redevelopment of Downtown Columbia, including the development, adoption and implementation of the Downtown Columbia Plan. Further, as Council Administrator, she oversaw the adoption of legislation amending the Downtown Columbia Plan to strengthen

¹ For purposes of this opinion the Requestor is identified as the prospective employee. Section 22.203(M) (1) provides that “Any person subject to this subtitle may request an advisory opinion from the Commission concerning the application of this subtitle.” The request for an advisory opinion was received from the County Administration’s Chief of Staff, who is a person subject to this subtitle. Although the prospective employee was not yet subject to the ethics code and therefore was not entitled to request an advisory opinion prior to her employment, the Commission commends the Administration for resolving these issues prospectively, and this opinion shall apply to the Requestor upon employment with the County.

affordable housing requirements, approving a Development Rights and Responsibilities Agreement (DRRA), and establishing a tax increment financing district for Downtown Columbia.

In January of 2019, the Requestor was elected to political office as a delegate to the Maryland House of Delegates and she represents parts of Howard and Baltimore Counties.

The Requestor would like to maintain her position as a delegate to the Maryland General Assembly, while working for the County as a part-time contingent executive exempt employee. The Requestor has received an opinion from the Joint Committee on Legislative Ethics for the Maryland General Assembly granting an exception for her to work for an executive unit of State government due to her history of employment with the County related to work in Downtown Columbia. Further, she has agreed to recuse herself from any State legislative action that would make substantive administrative changes to the Howard County Office of County Executive or that would directly impact her compensation or position with the County. Further, the Requestor has agreed to recuse herself from any County work that would directly impact her position as a Delegate.

II. THE LAW

The principal provisions of the Ethics Law which define prohibited conduct of employees are the "Participation Prohibitions" set forth in Section 22.204(A) and the "Employment Prohibitions" set forth in Section 22.204(B). "Disclosure of Confidential Information" in section 22.204(G) prohibits the use of confidential information gained by virtue of public employment for private gain.

In pertinent part, Section 22.204(A) of the Ethics Law, "Participation Prohibitions" provides:

(1) Except as permitted by Commission regulation or opinion, an official or employee may not participate in: (I) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter, any matter in which, to the knowledge of the official or employee, the official or employee or a qualified relative of the official or employee has an interest.

(II) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter, any matter in which any of the following is a party:

Section 22.204(B) of the Ethics Law, "Employment Prohibitions", provides that:

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(1) Except as permitted by regulation of the commission when the interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:

(I) Be employed by or have a financial interest in any entity:

A. Subject to the authority of the official or employee or the county agency, Board, Commission with which the official or employee is affiliated; or

B. That is negotiating or has entered a contract with the agency, board, or Commission with which the official or employee is affiliated; or

(II) Hold any other employment relationship that would impair the impartiality or independence of judgment of the official or employee.

Section 22.204(G), "Disclosure of Confidential Information", reads as follows:

Other than in the discharge of official duties, officials or employees may not disclose or use, for their own gain or that of another, confidential information acquired by reason of public position and which is not available to the public.

Section 901 of the Howard County Charter sets forth the following series of prohibitions:

Prohibitions. No officer or employee of the County, whether elected or appointed, shall in any manner whatsoever be interested in or receive any benefit of the profits or emoluments of any contract, job, work, or service for the County. No such officer or employee shall accept any service or thing of more than nominal value, directly or indirectly, from any person, firm or corporation having dealings with the County, upon more favorable terms than those granted to the public generally, nor shall he or she receive, directly or indirectly, any part of any fee, commission or other compensation paid or payable by the County, or by any person in connection with any dealings with the County, or by any person in connection with any dealings with or proceedings before any branch, office, department, board, commission or other agency of the County. No such officer or employee shall directly or indirectly be the broker or agent who procures or receives any compensation in connection with the procurement of any type of bonds for County officers, employees or persons or firms doing business with the County. No such officer or employee shall solicit or accept any compensation or gratuity in the form

of money or otherwise for any act or omission in the course of his or her public work; provided, however, that the head of any department or board of the County may permit an employee to receive a reward publicly offered and paid for, for the accomplishment of a particular task.

III. ISSUE

Does the Requestor's position as a Delegate in the Maryland General Assembly prohibit her part-time contingent employment with Howard County to oversee the redevelopment of Downtown Columbia?

IV. DISCUSSION

Section 22.204 (B)(2)(IV) provides that an employment or financial interest is allowed by regulation of the Commission if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.

Although the Requestor's position as a Delegate does include representation for parts of Howard County, the Commission does not find a nexus between the Requestor's County job duties and her position as a Delegate. As acknowledged by the Maryland General Assembly's Joint Committee on Legislative Ethics, the Requestor's history of County employment makes her uniquely qualified for the Downtown Columbia position. The part-time position as outlined herein is very specific to issues related to Downtown Columbia.

Further, the County has in the past allowed an employee to work in the executive branch of County government while holding a position as a delegate in the Maryland General Assembly. (*See* Advisory Opinion 09-02). Further, the Requestor has indicated that because her employment with the County is part-time in nature, she will not have any issues being able to carry out the tasks of the position and it will not interfere with her responsibilities as a Delegate.

V. CONCLUSION

The Commission finds that the Requestor may continue to serve as a Delegate to the Maryland House of Delegates while being employed with the County subject to the restrictions enumerated in this Opinion.² Should any of the material facts in this request change, the Requestor should seek further advice from the Commission.

HOWARD COUNTY ETHICS COMMISSION

By: 
Kristen Bowen Perry, Executive Secretary, on behalf of
the Howard County Ethics Commission

Charles Fuller, Chairperson
Joanne Drielak, Vice Chairperson
Jonathan Kromm
Joseph Markwordt*
Jean Xu

*Member Joseph Markwordt recused himself from participating in this Opinion.

² This Opinion does not substitute for compliance with the Secondary Employment Policy in the Employee Manual and the prospective employee is expected to comply with that policy as well.